

**CITY OF FORT COLLINS
TYPE 1 ADMINISTRATIVE HEARING**

FINDINGS AND DECISION

HEARING DATE: April 26, 2018

PROJECT NAME: Solera Subdivision

CASE NUMBER: FDP #170021

APPLICANT: Charles (Chuck) Rohde
Solera Properties
PO Box 6273
Colorado Springs, CO 80934

OWNER: Charles and Ann C. Rohde
10 Las Piedras Escondidas
Colorado Springs, CO 80904

HEARING OFFICER: Marcus A. McAskin

PROJECT DESCRIPTION: This is a request for a combined Project Development Plan/Final Development Plan (FDP) to plat an approximate 2.37-acre site and construct one single-family detached house. The existing modular house on the site is proposed to remain as an accessory building. The existing pole barn is also proposed to remain on the site. There are five small accessory structures that will be demolished or removed. The subject property is located at 1701 W. Trilby Road, and is currently zoned Rural Lands District (R-U-L).

The Applicant/Owner requests two (2) Modifications of Standard, specifically the following:

- (1) the Applicant has submitted a request for approval of a Modification of Standard to Section 4.1(D)(1) of the LUC, *Residential Density*, requesting a lot size of 2.37 acres instead of the minimum ten (10) acre lot size required in the R-U-L zone district; and
- (2) the Applicant has also submitted a request for approval of a Modification of Standard to 4.1(D)(3)(b)(1), *Dimensional Standards*, requesting a lot width of 165 feet instead of the minimum 200-foot lot width required in the R-U-L zone district.

BACKGROUND: The subject property was annexed into the City of Fort Collins as part of the Southwest Enclave Annexation (phase four) in 2014, and has not previously been platted. As set forth above, the subject property is currently zoned R-U-L (Rural Lands). Division 4.1 of the LUC states that the R-U-L District is “intended for privately owned lands that are planned as a rural edge

to the community” and Section 4.1(B)(2)(a) permits single family detached dwellings on lots containing at least ten (10) acres, subject to administrative review.

The surrounding zoning and land uses are as follows:

Direction	Zone District	Existing Land Uses
North	Rural Lands District (RUL)	Scheel Subdivision; single family
South	Rural Lands District (RUL)	Single family house
East	Rural Lands District (RUL)	Single family house
West	Rural Lands District (RUL)	Single family house

SUMMARY OF DECISION: Approved.

ZONE DISTRICT: Rural Lands District (R-U-L)

HEARING: The Hearing Officer opened the hearing on Thursday, April 26, 2018, in Conference Rooms A-D, 281 North College Avenue, Fort Collins, Colorado, at approximately 5:30 p.m.

EVIDENCE: Prior to or at the hearing, the Hearing Officer accepted the following documents as part of the record of this proceeding:

1. Applicant’s Statement of Planning Objectives.
2. Applicant’s Request for Modification of Standard
3. Solera Site and Landscape Plan.
4. Solera Subdivision Plat.
5. Utility Plans.
6. The City’s Comprehensive Plan, Code, and the formally promulgated polices of the City are all considered part of the record considered by the Hearing Officer.
7. Affidavit of Publication dated April 18, 2018, evidencing proof of publication of Notice of Hearing in the Fort Collins Coloradan on April 18, 2018.
8. Notice of Public Hearing dated April 12, 2018.
9. A copy of the Planning Department Staff Report prepared for the above-referenced Application is attached to this decision as **ATTACHMENT A** and is incorporated herein by reference.
10. A copy of the Planning Department PowerPoint prepared for the April 26th hearing (14 slides).

TESTIMONY: The following persons testified at the hearing:

From the City: Meaghan Overton, City Planner

From the Owner: Charles (Check) Rohde
From the Public: Arnold Drennen, 1736 W. Trilby
Stephen Miller, 1520 Forrestral Drive

FINDINGS

1. Evidence presented to the Hearing Officer established the fact that notice of the public hearing was properly posted, mailed and published.
2. Based on testimony provided at the public hearing and a review of the materials in the record of this case, the Hearing Officer concludes as follows:
 - A. the Application complies with the applicable procedural and administrative requirements of Article 2 of the Land Use Code;
 - B. the Application complies with the applicable General Development Standards contained in Article 3 of the Land Use Code; and
 - C. The Solera Subdivision FDP complies with the applicable standards in Division 4.1, Rural Lands District of Article 4 – Districts, subject to approval of the Modifications of Standard to Section 4.1(D)(1), Residential Density and Section 4.1(D)(3)(b)(1), Dimensional Standards for minimum lot width.
3. The Application’s satisfaction of the applicable Article 2, 3 and 4 requirements of the Land Use Code is sufficiently detailed in the Staff Report, a copy of which is attached as **ATTACHMENT A** and is incorporated herein by reference.
4. Based on testimony provided at the public hearing and a review of the materials submitted to the Hearing Officer in this case, the Hearing Officer concludes that the Modifications of Standard (for Section 4.1(D)(1), *Residential Density* and Section 4.1(D)(3)(b)(1), *Dimensional Standards* for minimum lot width, as requested by the Owner) (together, the “Modifications”) meet the applicable requirements of Section 2.8.2(H) of the Code. Specifically, the Hearing Officer finds as follows:
 - A. The granting of the Modifications would not be detrimental to the public good.
 - B. The Modifications requested by the Owner to Section 4.1(D)(1) of the Land Use Code (*Residential Density*), and Section 4.1(D)(3)(b)(1) of the Code (*Dimensional Standards*) pertaining to minimum lot width, each independently satisfy the criteria set forth in Section 2.8.2(H)(3) of the Code. Specifically, the subject property has exceptional physical conditions or other extraordinary and exceptional situations, unique to the subject property as explained below. The subject property’s size and shape is a pre-existing condition that conformed to the Larimer County land use regulations prior to annexation into the City of Fort Collins. The size and shape of the parcel is a pre-existing condition that existed prior to the Applicant/Owner acquiring the subject property, and the use (single-family detached house) was

previously established on the parcel. The proposed development will not increase residential density or change the size or shape of the parcel, with the exception of the dedication of the additional 12.00' of right-of-way for Trilby Road (as shown on the Solera Subdivision plat).

DECISION

Based on the findings set forth above, the Hearing Officer hereby approves the Solera Subdivision FDP #170021 as submitted.

DATED this 7th day of May, 2018.



Marcus A. McAskin
Hearing Officer

ATTACHMENT A

Staff Report

Solera Subdivision

FDP #170021



ITEM NO 1
MEETING DATE April 26, 2018
STAFF Meaghan Overton
ADMINISTRATIVE HEARING OFFICER

STAFF REPORT

PROJECT: Solera Subdivision, FDP170021

APPLICANT: Charles (Chuck) Rohde
Solera Properties
PO Box 6273
Colorado Springs, CO 80934

OWNER: Charles (Chuck) and Ann C. Rohde
10 Las Piedras Escondidas
Colorado Springs, CO 80904

PROJECT DESCRIPTION:

This is a request for a Final Development Plan to plat a 2.37-acre site and construct one single-family detached house. The existing modular house on the site is proposed to remain as an accessory building. The existing pole barn is also proposed to remain on the site. The project proposal is located at 1701 W. Trilby Road, in the R-U-L (Rural Lands) zone district.

The FDP includes a request for two Modifications of Standard for minimum lot size and minimum lot width. The applicant requests a Modification of Standard to Sections 4.1(D)(1), Residential Density minimum lot size of 10 acres, and 4.1(D)(3)(b)(1), Dimensional Standards for minimum lot width of 200 feet.

RECOMMENDATION: Approval of the Solera Subdivision Final Development Plan and Modification of Standard to Sections 4.1(D)(1), Residential Density minimum lot size, and 4.1(D)(3)(b)(1), Dimensional Standards for minimum lot width.

EXECUTIVE SUMMARY:

Staff finds the proposed Solera Subdivision Final Development Plan complies with the applicable requirements of the City of Fort Collins Land Use Code (LUC), more specifically:

- The Final Development Plan complies with process located in Division 2.2 – Common Development Review Procedures for Development Applications of Article 2 – Administration.
- The Modifications of Standard to Sections 4.1(D)(1), Residential Density minimum lot size, and 4.1(D)(3)(b)(1), Dimensional Standards for minimum lot width meet the applicable requirements of Section 2.8.2(H). The granting of the Modifications would not be detrimental to the public good.
- The Final Development Plan complies with relevant standards of Article 3 – General Development Standards.
- The Final Development Plan complies with relevant standards located in Division 4.1, Rural Lands District of Article 4 – Districts, subject to approval of the Modification of Standard to Sections 4.1(D)(1), Residential Density minimum lot size, and 4.1(D)(3)(b)(1), Dimensional Standards for minimum lot width.

COMMENTS:

1. Background

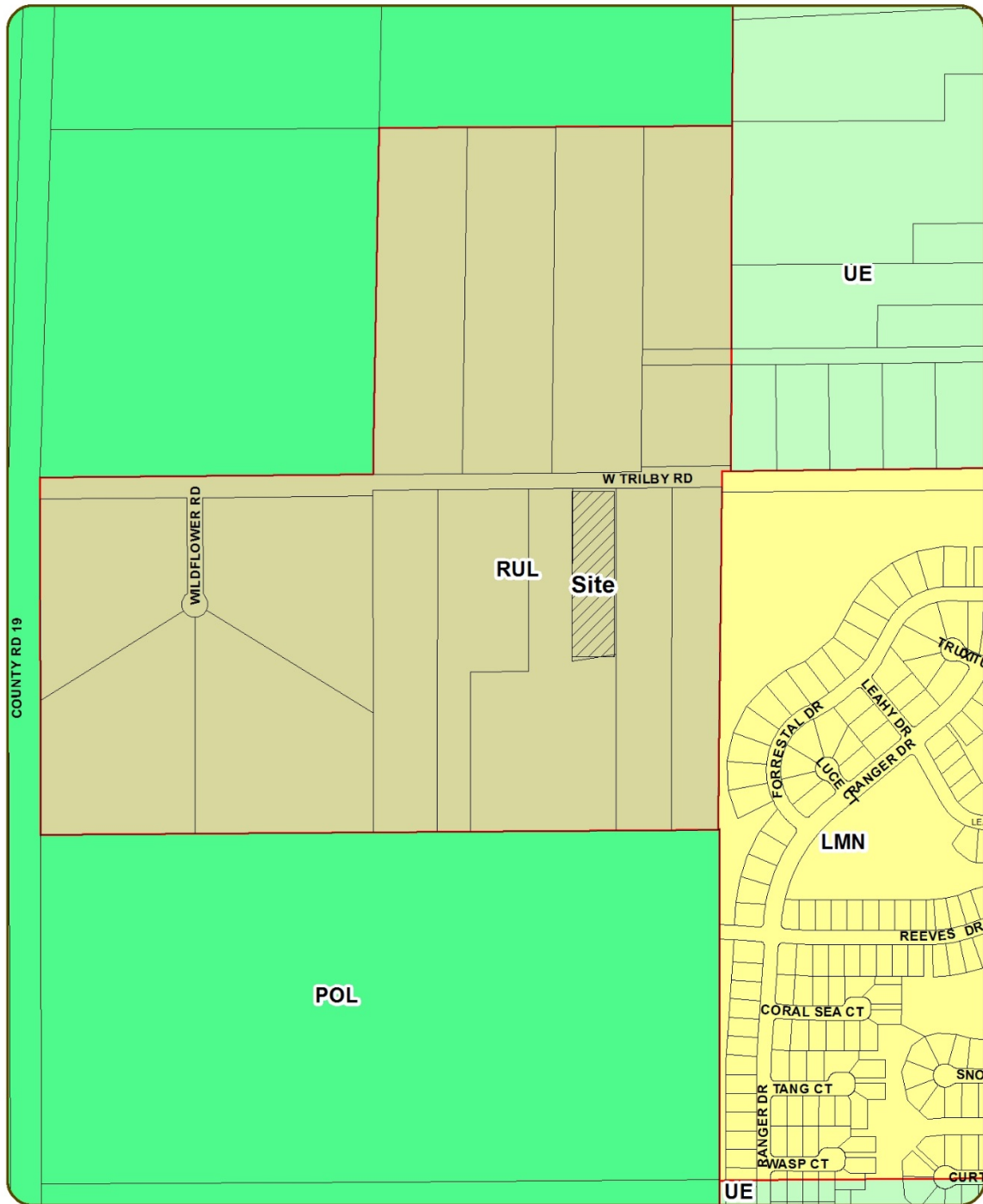
The project site was originally annexed into Fort Collins as part of the Southwest Enclave Annexation (phase four) in 2014, and has not been platted. The project site is zoned RUL (Rural Lands). There are two existing buildings on the site – a modular house and a pole barn. There are also five small accessory structures (sheds) and a corral on the site.

The surrounding zoning and land uses to each side of the project site are as follows:

Direction	Zone District	Existing Land Uses
North	Rural Lands District (RUL)	Scheel Subdivision; single family
South	Rural Lands District (RUL)	Single family house
East	Rural Lands District (RUL)	Single family house
West	Rural Lands District (RUL)	Single family house

A zoning and site vicinity map is presented on the following page.

Map 1: Solera Subdivision Zoning & Site Vicinity



1 inch = 475 feet

Solera Subdivision
Zoning and Vicinity Map



2. Compliance with Article 4 of the Land Use Code – Rural Lands District (RUL) Division 4.1:

The project complies with all applicable Article 4 standards as follows:

A. *Section 4.1(B)(2)(a) – Permitted Uses*

Detached single-family residential development is permitted in the Rural Lands District (RUL) on lots larger than 10 acres, subject to Administrative (Type 1) Review. The detached single-family use proposed for the final development plan meets this standard with the exception of lot size. The applicant is requesting a Modification of Standard to Section 4.1(D)(1)(a) to allow a lot size of 2.37 acres.

Though the proposal does not meet the minimum lot size requirement in the Rural Lands District, the proposed use is permitted under the guidelines in Land Use Code Division 1.6, Existing Limited Permitted Uses. The single-family use on the parcel in question was legally established under Larimer County regulations. Upon annexation into the City of Fort Collins, the Rural Lands District zoning designation for the parcel created a limited permitted use because the size of the existing parcel does not meet the minimum lot size requirement in the Rural Lands District.

B. *Section 4.1(D)(3) – Dimensional Standards*

The final development plan meets the dimensional standards of the Rural Lands District for front, rear, and side yard setbacks. The proposed project provides the following setbacks in conformance with the standards:

- 80-foot setback from arterial streets (Trilby Road)
- 60-foot Front Yard
- 50-foot Side Yard
- 50-foot Rear Yard

The final development plan does not meet the dimensional standards of the Rural Lands District for a 200-foot lot width. The applicant is requesting a Modification of Standard to Section 4.1(D)(3)(b)(1) to permit a lot width of 165 feet.

3. Compliance with Article 3 of the Land Use Code – General Development Standards:

The project complies with all applicable General Development Standards as follows:

A. *Section 3.2.1 – Landscaping and Tree Protection*

Development on existing lots for single-family detached dwellings is exempt from the standards in Section 3.2.1. The applicant has met with the City Forestry Department and is proposing to preserve all existing trees on the site. The combined site and landscape plan indicates the preservation of existing trees and pasture, and the addition of turf and landscaping surrounding the proposed single-family house.

B. *Section 3.2.2(K)(1)(c) – Residential Parking Requirements*

Vehicle parking requirements for single-family detached houses are a minimum of 1 parking space on lots with greater than 40 feet of street frontage or 2 parking spaces on lots with 40 feet or less of street frontage. There is no maximum number of parking spaces for a single-family detached house. Four parking spaces are proposed on the site, which exceeds the residential parking standards outlined in Section 3.2.2(K).

C. *Section 3.3.1 – Plat Standards*

The plat demonstrates proper dedication of public rights-of-way, drainage easements and utility easements that are needed to serve the site. The applicant has satisfactorily coordinated utility requirements with the relevant outside utility providers, including the Fort Collins-Loveland Water District (water), Xcel Energy (gas), Poudre Valley R.E.A. (electric), and the Larimer County Environmental Health Department (septic). The proposed house will be served by an onsite septic system and complies with the Larimer County Health Department minimum lot size of 2.29 acres.

D. *Section 3.5.2(E)(5) – Maximum Size of Detached Accessory Buildings*

The two accessory buildings proposed to remain on the site meet the standards for the permitted size of detached accessory buildings. On lots larger than 1 acre, the maximum size of detached accessory buildings is 2,500 square feet. The modular building is 1,517 square feet and the pole barn is 1,032 square feet.

E. *Section 3.6.2 – Streets, Streetscapes, Alleys and Easements*

The proposal meets the relevant street, streetscape, alley and easement standards of the Land Use Code as detailed below:

i. *Section 3.6.2(J) – Street right-of-way*

The plat for the proposed development dedicates an additional 12 feet of right-of-way to accommodate the width required for the future condition of West Trilby Road.

ii. *Section 3.6.2(O) – Easements*

Easements for utilities, water, and emergency access have been provided as required by the City Engineer, outside utility providers, and the Poudre Fire Authority.

F. *Section 3.6.6 – Emergency Access*

The proposal meets the emergency access standards of the Land Use Code and the requirements of the Poudre Fire Authority. An emergency access easement is shown along the driveway to provide access to the proposed house. The location of the proposed single-family house exceeds the maximum permitted distance from a fire hydrant. However, the proposed house will be equipped with a residential sprinkler system. The provision of a sprinkler system satisfies the emergency access requirements of the Poudre Fire Authority.

MODIFICATIONS OF STANDARD:

Land Use Code Modification Criteria:

“The decision maker may grant a modification of standards only if it finds that the granting of the modification would not be detrimental to the public good, and that:

(1) the plan as submitted will promote the general purpose of the standard for which the modification is requested equally well or better than would a plan which complies with the standard for which a modification is requested; or

(2) the granting of a modification from the strict application of any standard would, without impairing the intent and purpose of this Land Use Code, substantially alleviate an existing, defined and described problem of city-wide concern or would result in a substantial benefit to the city by reason of the fact that the proposed project would substantially address an important community need specifically and expressly defined and described in the city's Comprehensive Plan or in an adopted policy, ordinance or resolution of the City Council, and the strict application of such a standard would render the project practically infeasible; or

(3) by reason of exceptional physical conditions or other extraordinary and exceptional situations, unique to such property, including, but not limited to, physical conditions such as exceptional narrowness, shallowness or topography, or physical conditions which hinder the owner's ability to install a solar energy

system, the strict application of the standard sought to be modified would result in unusual and exceptional practical difficulties, or exceptional or undue hardship upon the owner of such property, provided that such difficulties or hardship are not caused by the act or omission of the applicant; or

(4) the plan as submitted will not diverge from the standards of the Land Use Code that are authorized by this Division to be modified except in a nominal, inconsequential way when considered from the perspective of the entire development plan, and will continue to advance the purposes of the Land Use Code as contained in Section 1.2.2.

Any finding made under subparagraph (1), (2), (3) or (4) above shall be supported by specific findings showing how the plan, as submitted, meets the requirements and criteria of said subparagraph (1), (2), (3) or (4).

4. Modification of Standard Requests to Section 4.1(D)(1), Residential Density and Section 4.1(D)(3), Dimensional Standards

A. The standards:

- *Section 4.1(D)(1) Residential Density*
 - (a) *Single-family detached maximum residential density shall be one (1) dwelling unit per ten (10) acres.*
- *Section 4.1(D)(3) Dimensional Standards*
 - (b)(1) *Minimum lot width shall be two hundred (200) feet.*

B. Description of the Modification:

The applicant has submitted a request for approval of a Modification of Standard to *Section 4.1(D)(1), Residential Density* requesting a lot size of 2.37 acres instead of the minimum 10 acre lot size required in the Rural Lands District.

The applicant has also submitted a request for approval of a Modification of Standard to *Section 4.1(D)(3)(b)(1), Dimensional Standards* requesting a lot width of 165 feet instead of the minimum 200 foot lot width required in the Rural Lands District.

C. Applicant’s Justification:

The standard per Section 4.1D(1) states that the minimum lot size shall be 10 acres for a single family detached dwelling. The proposed site plan requests approval of a 2.37 acre lot.

The standard per Section 4.1(D)(3) states that the minimum lot width shall be 200 feet for a single family detached dwelling. The proposed site plan requests approval of a 165 foot lot width.

The applicant justifies a request for these Modifications of Standard as follows:

1. The applicant contends that the parcel is unique in that it is exceptionally narrow (165 feet east to west) and shallow (655 feet north to south).
2. This parcel conformed to Larimer County land use regulations, but upon annexation into the City of Fort Collins in 2014 the parcel no longer met the lot size and width requirement for the Rural Lands District (RUL) zoning designation assigned to this portion of the Southwest Enclave Annexation. The applicant contends that these nonconformities constitute an undue hardship upon the owner of the property.
3. The applicant further contends that the manner in which the lot was subdivided to create the narrow width and shallow depth is unique to the southern section of Trilby Road in comparison to the lots to the north in the same zone district.
4. The resulting lot size does not affect the surrounding street pattern or principal building setbacks.

With the exception of the lot size and width, the proposal meets the standards set forth in Section 4.1 of the Land Use Code and the applicant believes that granting this request will not be detrimental to the public good.

D. Staff Finding for the Modification:

Staff finds that the request for the Modifications of Standard to Section 4.1(D)(1), Residential Density and Section 4.1(D)(3), Dimensional Standards for minimum lot width are justified by the applicable standards in 2.8.2(H). The granting of the Modification would not be detrimental to the public good and:

The request satisfies Criteria 2.8.2(H)(3):

By reason of exceptional physical conditions or other extraordinary and exceptional situations, unique to such property, including, but not limited to, physical conditions such as exceptional narrowness, shallowness or topography, or physical conditions which hinder the owner's ability to install a solar energy system, the strict application of the standard sought to be modified would result in unusual and exceptional practical difficulties, or exceptional or undue hardship upon the owner of such property, provided that such difficulties or hardship are not caused by the act or omission of the applicant.

This is because the parcel's size and shape is a pre-existing condition that conformed to the previous applicable Larimer County land use regulations prior to annexation into the City of Fort Collins. The size and shape of the parcel is an exceptional situation not caused by the applicant, and the use (single-family detached house) has already been established on the parcel. The proposed development will not increase residential density or change the size or shape of the parcel, with the exception of the dedication of the required right-of-way for Trilby Road.

5. Findings of Fact/Conclusion:

In evaluating the request for the Solera Subdivision Final Development Plan, staff makes the following findings of fact:

- A. The Modifications of Standard to Section 4.1(D)(1), Residential Density and 4.1(D)(3)(b)(1), Dimensional Standards for minimum lot width, are justified by the applicable standards in 2.8.2(H). The granting of the Modification would not be detrimental to the public good, and:

The request satisfies Criteria 2.8.2(H)(3):

By reason of exceptional physical conditions or other extraordinary and exceptional situations, unique to such property, including, but not limited to, physical conditions such as exceptional narrowness, shallowness or topography, or physical conditions which hinder the owner's ability to install a solar energy system, the strict application of the standard sought to be modified would result in unusual and exceptional practical difficulties, or exceptional or undue hardship upon the owner of such property, provided that such difficulties or hardship are not caused by the act or omission of the applicant.

This is because the parcel's size and shape is a pre-existing condition that conformed to the previous applicable Larimer County land use regulations

prior to annexation into the City of Fort Collins. The size and shape of the parcel is an exceptional situation not caused by the applicant, and the use (single-family detached house) has already been established on the parcel. The proposed development will not increase residential density or change the size or shape of the parcel, with the exception of the dedication of the required right-of-way for Trilby Road.

- B. The Solera Subdivision Final Development Plan complies with the process located in Division 2.2 – Common Development Review Procedures for Development Applications of Article 2 – Administration.
- C. The Solera Subdivision Final Development Plan complies with the applicable standards located in Article 3 – General Development Standards.
- D. The Solera Subdivision Final Development Plan complies with the applicable standards in Division 4.1, Rural Lands District of Article 4 – Districts, subject to approval of the Modifications of Standard to Section 4.1(D)(1), Residential Density and Section 4.1(D)(3)(b)(1), Dimensional Standards for minimum lot width.

RECOMMENDATION:

Staff recommends approval of the Solera Subdivision Final Development Plan, FDP170021 and the Modifications of Standard to Sections 4.1(D)(1), Residential Density minimum lot size, and 4.1(D)(3)(b)(1), Dimensional Standards for minimum lot width.

ATTACHMENTS:

1. Applicant’s Statement of Planning Objectives
2. Applicant’s Request for Modification of Standard
3. Site and Landscape Plan
4. Plat
5. Utility Plans